

REMARKS

This is responsive to the office action dated January 26, 2004. Claims 1-12 and 18-20 are pending in the patent application. New claims 25-26 have been added. Claims 13-17 and 21-24 have been withdrawn, for consideration in a divisional application. Claims 1, 2, 11, 12, 17-20 have been amended. Amendment has been made to correct issues under section 112/2 since these claims were originally drafted in European style and need clarifying amendments. Amendments to the specification to bring it into conformity with US practice is included. No new matter has been added.

Claims were rejected on the basis of sec 102e and in various combinations under sec 103, in view of the Makkonen patent Magnasco et al and Chang patents. The claims as presented herein are submitted to be patentable thereover.

First, the undersigned wishes to thank the examiner for the interview of 3 Feb 04 wherein the claims and prior art were discussed. The examiner recommended general claim amendments to clarify distinctions over the art.

Claim 26, for example, calls for a compact device which is achieved by the folding of a microphone arm which when folded, does not extend substantially beyond the housing and which includes a hinge link to pivot at a predetermined fixed point on said housing. Clearly the Chang reference is inapplicable because it does not pivot to create a compact device as defined in the claim. The same applies to Magnasco for like reasons (the boom arm does not pivot in the manner defined in the claim). The Makkonen patent is entirely distinguishable because it does not meet many of the criteria of the claim, but after discussion with the examiner, it was suggested that Makkonen was capable of pivoting, but that it had an infinite number of pivot points

(because it was entirely flexible). The problem is that combining Makkonen with any of the other references fails for lack of teaching of how to make the combination and what the combination would look like when finished. Makkonen is just a flexible tube. What does that teach in combination with the other references? How does it produce a compact unit? In any event, claim 26 includes a predetermined pivot point, a feature clearly not intended by Makkonen.

The arguments in favor of patentability over the art for claim 1 are similar to claim 26 above. In addition, claim one further clarifies the housing as defining a boundary. Clearly the Makkonen reference has no housing in that sense, and the combination of the other two citations fails to create a compact unit with the microphone arm substantially within that boundary.

Claim 2 defines some of the geometry of the invention. The movement of the microphone arm orthogonally to the one plane further removes the Magnasco and Chang references (if not already removed) as their movements are coplanar not orthogonal.

Claim 3 defines the hinge pins, likewise not employed in the prior art.

Claim 4 defines an activation contact, not found in the prior art.

Claim 5 defines a release mechanism, not found in the prior art.

Claim 6 defines shows a structure for writing of the microphone through the hinge, likewise not shown in the art.

Claim 7 defines the use of an antenna in the housing, not shown in the art.

Claim 8 further defines the antenna as a coating, not shown in the art.

Claim 9 further defines other connections as coatings, not shown in the art.

Claim 10 defines a recess in the housing to accommodate an earhook, which makes the package more compact. Clearly the prior art was not concerned about compactness or a complete redesign would be required.

Claim 11 defines the unique combination of elements including reversibility, not shown in the art.

Claim 12, as amended, defines a device, which defines geometry not shown in the prior art, with the movement of the microphone arm defined.

Claim 17, as amended, indicates how the headset can recognize which ear it is being worn on and adjust for same. This feature is not shown in the prior art.

Claim 18, as a amended, defines a structure which has a sensor response to an element to detect the movement of the arm for various purposes. This is not shown in the art.

Claim 19, further defines the geometry of the element and recess, a concept unknown in the prior art.

Claim 20, further defines the relationship between the element and stem, likewise not shown in the art.

Finally, claim 25 presents a combination of a housing, a microphone arm which has a length equal to or less than the greatest extent of the housing. This creates the compact device. None of the art attempt to create a compact device. If Makkonen is taken to make a compact device by rolling it into the spiral, where is the microphone arm? Where is the housing? It simply does not create a useful teaching of this claim.

CONCLUSION

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. The amendments clarify the patentable invention without adding new subject matter. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

Authorization is hereby given to charge any additional fees or credit any overpayments that may be deemed necessary to Deposit Account Number 50-1038.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Michael B. Lasky at (952) 253-4106.

Respectfully submitted,
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